

## NEVADA BOARD TO REVIEW CLAIMS

MEETING OF SEPTEMBER 10, 2015

Video conferenced from Carson City and Las Vegas, Nevada

ITEM:

7.A

SUBJECT:

Policy Resolution No. 2015-01 - Provides Clarification Regarding the Petroleum Fund Bid Process.

DISCUSSION:

Petroleum Fund regulation NAC 590.760.4(e) requires a storage tank owner/operator to obtain approval from the Nevada Division of Environmental Protection (NDEP) or secure not less than three competitive bids for a task included in a corrective action that costs more than \$3,000.00 if the corrective action required by the discharge from the tank is not an emergency. The intent of this regulation is to facilitate cost control.

Policy Resolution No. 2015-01 will further delineate the bid process to meet the intent of NAC 590.760.4(e). It will provide a \$25,000.00 threshold whereby bids must be provided to NDEP prior to work being initiated and how the Certified Environmental Consultant, the owner/operator and bidding contractor/vendor must submit the bids.

RECOMMENDATION:

**Adoption** of Policy Resolution No. 2015-01 as proposed.

NEVADA BOARD TO REVIEW CLAIMS  
RESOLUTION No. 2015-01

Resolution to Provide Clarification Regarding the Petroleum Fund Bid Process

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Whereas, the Nevada Board to Review Claims (hereinafter referred to as the Board) Finds:

1. NAC 590.760.4(e) states that a storage tank operator must obtain approval from the Nevada Division of Environmental Protection (NDEP) or secure not less than three competitive bids for a task included in a corrective action that costs more than \$3,000.00 if the corrective action required by the discharge from the tank is not an emergency.
2. NAC 590.710.1(c) defines an emergency as an action that stops the release of petroleum or identifies or mitigates existing or potential hazards from fire, explosion, vapor or other hazards associated with a release, or prevents the migration of petroleum which poses a substantial imminent threat to the environment.
3. The intent of NAC 590.760.4(e) is to facilitate cost control and maintain open competition.
4. To better manage cost control, but not impede corrective action progress, all projects or purchases with bids equal to or greater than \$25,000.00 must be provided to NDEP prior to the work being initiated by the contractor or item being purchased.
5. NDEP will review the bid packet in 10 business days of receiving it, or sooner, if able. NDEP will notify the person who submitted the bid packet whether or not there is an objection.
  - a. If NDEP does not object, the work may proceed or item purchased.
  - b. If NDEP objects, the issue must be resolved or, if the owner chooses to proceed, the costs for doing the work or purchasing the item may not be recommended for reimbursement.

If NDEP does not stipulate whether or not it has an objection after 10 business days from bid packet receipt, the work may proceed or the item may be purchased.
6. For all bids, regardless of the bid amount, the contractor or vendor must sign a "Contractor Certification Form" or "Vendor Form" which contain certification statements (See Attachment A and B).
7. The individual bids, each paired with a signed Contractor Certification Form, are packaged, usually by the Certified Environmental Manager (CEM), with the Bid Summary Table completed. The CEM and Owner/Operator each must sign the "CEM Bid Summary & Certification Form" (See Attachment D) which completes the bid packet for transmittal to NDEP.

THEREFORE BE IT RESOLVED THAT:

1. The Request for Bids sent to contractors must be structured so all obtained bids will be compared to the same criteria (See Attachment C for Request for Bid Table Example). The Summary Bid Table (See Attachment D) must be completed prior to submittal to NDEP and will ensure comparable bids.
2. All contractor work or purchases with bids equal to or greater than \$25,000.00 must be provided to the regulatory case officer and the NDEP LUST supervisor prior to the work being initiated by the contractor or item being purchased.
  - a. NDEP will review the bid packet in 10 business days of receiving it, or sooner, if able. NDEP will notify the person who submitted the bid packet whether or not there is an objection.
    - i. If NDEP does not object, the work may proceed or item purchased.
    - ii. If NDEP objects, the issue must be resolved or, if the owner chooses to proceed, the costs for doing the work or purchasing the item may not be recommended for reimbursement.
  - b. If NDEP does not stipulate whether or not it has an objection after 10 business days from bid packet receipt, the work may proceed or the item may be purchased.
3. All bids, regardless of the bid amount, must be accompanied with a signed Contractor Certification Form and/or Vendor Certification Form.
4. The individual bids, each paired with a signed Contractor Certification Form, are packaged, usually by the Certified Environmental Manager (CEM), with the Bid Summary Table completed. The CEM and Owner/Operator each must sign the "CEM Bid Summary & Certification Form" which completes the bid packet for transmittal to NDEP. This process is required for all bids, regardless of the amount.
5. The Petroleum Fund reimburses for select corrective action equipment and corrective action work performed, including reasonable and customary profit and overhead markup. The Fund does not reimburse costs attributed to risks associated with an owner/operator or other intangible costs not related to the work being performed or item(s) being purchased.

I, John Haycock, Chairman, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the Nevada Board to Review Claims on June 11, 2015.

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John Haycock, Chairman  
Nevada Board to Review Claims

**Attachment A**  
**Contractor Certification Form**

## Contractor Certification Form

I hereby certify, to the best of my knowledge, that:

- I am licensed to conduct the work contained in the above-described and attached bid.
- I have arrived at the prices in the bid independently, without consultation, communication, or agreement with any party for the purpose of restricting competition.
- I have not included ineligible contractor costs in my bid amount. *(Please visit <http://ndep.nv.gov/bca/fundhome.htm> for Ineligible Costs)*
- Unless otherwise required by law, I have not and will not disclose the prices quoted in the bid to any party, directly or indirectly, prior to the opening of all bids by the party requesting the bid.
- I did not attempt to induce any other party to submit, not submit, or modify a bid for the purpose of restricting competition.
- I will provide to the NDEP all necessary documentation to verify actual costs, if requested. These may include but are not limited to: bid worksheets, timesheets and subcontractor invoices. I understand that reimbursements approved by the Petroleum Fund Board are subject to audit by the NDEP or any representative thereof.
- I understand that the submission of false or misleading information or credentials, or failure to comply with the applicable statutes or rules, may result in a denial of all claims as well as further penalties as provided under NRS 459.595 and NRS 197.160.

Business Name\_\_\_\_\_

Printed Name\_\_\_\_\_

Authorized Signature\_\_\_\_\_

Contractor's Nevada License Number\_\_\_\_\_

License Expiration Date\_\_\_\_\_

Phone Number \_\_\_\_\_

Date\_\_\_\_\_

Project Name\_\_\_\_\_

Project Location\_\_\_\_\_

\_\_\_\_\_

Petroleum Fund Case#\_\_\_\_\_

Facility ID #\_\_\_\_\_

**Attachment B**  
**Vendor Certification Form**

## Vendor Certification Form

I hereby certify, to the best of my knowledge, that:

- I have arrived at the prices in the bid independently, without consultation, communication, or agreement with any party for the purpose of restricting competition.
- I have not included ineligible costs, as defined in the Contractors' Ineligible Costs, in my bid amount. (Please visit <http://ndep.nv.gov/bca/fundhome.htm> for Ineligible Costs)
- Unless otherwise required by law, I have not and will not disclose the prices quoted in the bid to any party, directly or indirectly, prior to the opening of all bids by the party requesting the bid.
- I did not attempt to induce any other party to submit, not submit, or modify a bid for the purpose of restricting competition.
- I understand that reimbursements approved by the Petroleum Fund Board are subject to audit by the NDEP or any representative thereof. I understand that the submission of false or misleading information or credentials, or failure to comply with the applicable statutes or rules, may result in a denial of all claims as well as further penalties as provided under NRS 459.595 and NRS 197.160.

Business Name\_\_\_\_\_

Printed Name\_\_\_\_\_

Authorized Signature\_\_\_\_\_

Business License Number\_\_\_\_\_

Phone Number\_\_\_\_\_

Date\_\_\_\_\_

Project Name\_\_\_\_\_

Project Location\_\_\_\_\_

\_\_\_\_\_

Petroleum Fund Case # \_\_\_\_\_

Facility ID # \_\_\_\_\_

**Attachment C**  
**Example Request for Bid Form**



## NEVADA PETROLEUM FUND REQUEST FOR BID

Project Name \_\_\_\_\_

Project Location \_\_\_\_\_

\_\_\_\_\_

Petroleum Fund Case # \_\_\_\_\_

Facility ID # \_\_\_\_\_

Task	Estimated Quantity	Unit	Unit Price	Cost
Task A				
Task B				
Task C				
Total Cost				<b>\$\$ ENTER TOTAL COST HERE</b>

**Attachment D**

**CEM & Owner/Operator Bid Summary and  
Certification Form**

## NEVADA PETROLEUM FUND BID SUMMARY & CERTIFICATIONS

Project Name \_\_\_\_\_  
Project Location \_\_\_\_\_

Petroleum Fund Case # \_\_\_\_\_ Facility ID # \_\_\_\_\_

			BIDS		
DESCRIPTION OF TASK / WORK ACTIVITY	QUANTITY	UNIT	Company Name #1	Company Name #2	Company Name #3
			\$	\$	\$
			\$	\$	\$
			\$	\$	\$

**NOTE: Bids must be reported in like units**

### Bid Packet Requirements:

1. Ensure the Request for Bid Table provided to the Contractors/Vendors has tasks in identical order as the Bid Summary Table provided to NDEP. If the Quantity is not uniform for all bids, please indicate N/A for "not applicable." The unit should be uniform for all bids.
2. Provide **justification** along with a **Regulatory Case Officer Waiver** if less than three bids were obtained OR lowest bid was not selected.
3. Ensure all contractor/vendor bids are complete, including a signature following the certification statements.
4. Ensure both the CEM and Owner have signed this form which includes the certification statements on the following page.
5. Bids \$25,000.00 or greater must be submitted to the regulatory case officer and the NDEP UST/LUST Supervisor prior to conducting work or purchasing item.
6. If NDEP does not object to the submitted bid packet after 10 business days of receipt, the contracted work may begin or the item may be purchased.

## Certification Statements

I hereby certify, to the best of my knowledge, that:

- I have confirmed the bids were obtained only from parties qualified to perform the work.
- The bids are based upon the same scope of work and I have included the Request for Bid.
- I have not independently consulted, communicated, or otherwise influenced any bidding party for the purpose of restricting competition.
- Unless otherwise required by law, I have not and will not disclose the prices quoted in the bids to any party, directly or indirectly, prior to the opening of all bids by the party requesting the bid.
- I did not attempt to induce any other party to submit, not submit, or modify a bid for the purpose of restricting competition.
- I have submitted to NDEP a true and correct copy of each bid I received.
- I will provide to the NDEP all necessary documentation to verify actual costs, if requested. I understand that reimbursements approved by the Petroleum Fund Board are subject to audit by the NDEP or any representative thereof. I will reimburse the fund for any costs disallowed pursuant to such an audit.
- I understand that the submission of false or misleading information or credentials, or failure to comply with the applicable statutes or rules, may result in a denial of all claims as well as further penalties as provided under NRS 459.595 and NRS 197.160.

**Project Name**\_\_\_\_\_

**Project Location**\_\_\_\_\_

**Petroleum Fund Case #**\_\_\_\_\_

**Facility ID #**\_\_\_\_\_

### Storage Tank Owner/Operator

Printed Name\_\_\_\_\_

Signature\_\_\_\_\_

Phone Number\_\_\_\_\_

Date\_\_\_\_\_

### Certified Environmental Manager

Company\_\_\_\_\_

Printed Name\_\_\_\_\_

CEM Number\_\_\_\_\_

Signature\_\_\_\_\_

Phone Number\_\_\_\_\_

Date\_\_\_\_\_

Attachments: Copy of Request for Bid

Copies of all bids received and Contractor/Vendor Certification Forms

### REGULATORY AGENCY USE ONLY

I DO\_\_\_ DO NOT\_\_\_concur with the proposed bid packet and selected contractor/vendor \_\_\_\_\_

Regulatory Case Officer

Date